

1  
2  
3  
4  
5  
6  
7  
8  
9  
10 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

11 STEVEN T. GREENE,

12 Plaintiff,

13 v.

14 STATE OF WASHINGTON, *et al.*,

15 Defendants.  
16  
17

CASE NO. C09-5055RBL/JRC

REPORT AND  
RECOMMENDATION

Noted for May 8, 2009

18 This §1983 Civil Rights matter has been referred to the undersigned Magistrate Judge  
19 pursuant to 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates Judge' Rules  
20 MJR 1, MJR 3, and MJR 4.

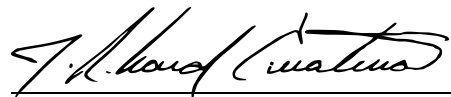
21 This matter is before the court for initial review. Plaintiff has moved to proceed *in forma*  
22 *pauperis* (Dkt. #1). The Clerk's Office informed him of defects in his application to proceed *in*  
23 *forma pauperis* and gave him until March 9, 2009, to correct those defects (Dkt. # 2). The letter  
24 outlining the defects was returned as undeliverable on February 10, 2009. Plaintiff has not  
25 provided a current address.  
26

1 The Court now recommends this action be **DISMISSED WITHOUT PREJUDICE**  
2 based on plaintiff's failure to keep the court apprised of a current address.

3 Local Rule 41 (b) (2) allows the court to dismiss an action without prejudice for failure to  
4 prosecute when mail has been returned and the plaintiff has not provided a current address in the  
5 next sixty days. Here, mail was returned on February 10, 2009. As of April 13, 2009, sixty days  
6 have passed since the letter was returned and no change of address has been received. This  
7 action should be DISMISSED WITHOUT PREJUDICE. The action does not count as a strike  
8 because plaintiff was not granted *in forma pauperis* status.  
9

10 Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal rules of Civil Procedure,  
11 the parties shall have ten (10) days from service of this Report to file written objections. *See*  
12 *also* Fed. R. Civ. P. 6. Failure to file objections will result in a waiver of those objections for  
13 purposes of appeal. Thomas v. Arn, 474 U.S. 140 (1985). Accommodating the time limit  
14 imposed by Rule 72(b), the clerk is directed to set the matter for consideration on May 8, 2009.  
15  
16

17 DATED this 15<sup>th</sup> day of April, 2009.  
18  
19

20 

21 J. Richard Creatura  
22 United States Magistrate Judge  
23  
24  
25  
26